

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8219 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SURESH MADRASHI GOTUBHAI KAHAR

Versus

COMMISSIONER OF POLICE

Appearance:

MR SATISH R PATEL for Petitioner

MR UA TRIVEDI, AGP for respondents

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 26/11/96

ORAL JUDGEMENT

1. By way of this Special Civil Application, the petitioner has challenged the order of detention dated 28/09/1996.

2. It appears from the grounds of detention that two cases have been registered against the petitioner. The first case has been registered for the the offence punishable u/s 143, 147, 148, 452, 323, 294 - I.P.C. and section 135 of the Bombay Police Act. The second case

has been registered against the petitioner for the offence punishable u/s 324 - I.P.C. and section 135 of the B.P.Act.

3. I have heard learned counsel for the parties. Following the law laid down by the Apex Court in Mustakmiya Shaikh vs. M.M.Mehta 1995 (2) G.L.R. 1268, I find no material on record which may indicate that the petitioner is a dangerous person within the meaning of section 2(c) of the Gujarat Prevention of Anti Social Activities Act, 1985. In view of this, the order of detention is not sustainable.

4. In the result, the Special Civil Application is allowed. The impugned order of detention is quashed and set aside. The detenu shall be enlarged forthwith, if he is not required in any other case. Rule is made absolute accordingly.

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